

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Michael Talisayan	Team: Squad #11	CCRB Case #: 201906488	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 07/12/2019 1:20 PM	Location of Incident: [REDACTED]	Precinct: 34	18 Mo. SOL 1/12/2021	EO SOL 8/29/2021	
Date/Time CV Reported Fri, 07/12/2019 3:38 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 07/24/2019 12:27 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. SGT Roy Kim	03159	947132	034 PCT
2. POM Alexis Martinez	15160	966695	034 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Carmen Mateo	02383	931810	034 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Roy Kim	Discourtesy: Sergeant Roy Kim spoke discourteously to § 87(2)(b) [REDACTED]	[REDACTED]
B.SGT Roy Kim	Force: Sergeant Roy Kim used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
C.SGT Roy Kim	Abuse: Sergeant Roy Kim refused to provide his shield number to § 87(2)(b) [REDACTED]	[REDACTED]
D.POM Alexis Martinez	Abuse: Police Officer Alexis Martinez refused to provide his shield number to § 87(2)(b) [REDACTED]	[REDACTED]
E.POM Alexis Martinez	Abuse: Police Officer Alexis Martinez seized § 87(2)(b) [REDACTED]'s property.	[REDACTED]

Case Summary

On July 12, 2019, Sergeant Roy Kim of the 34th Precinct called the IAB Command Center regarding § 87(2)(b) whose complaint was received by the CCRB on July 24, 2019. As § 87(2)(b) had criminal charges pending as a result of this incident, his case was closed pending litigation per his criminal attorney. On May 27, 2020, the undersigned called § 87(2)(b). He requested that the investigation be reopened because he no longer had any pending criminal charges related to the incident.

On July 12, 2019, at approximately 1:20 p.m., § 87(2)(b) was inside the lobby area of the § 87(2)(b) in Manhattan. At this time, § 87(2)(b) § 87(2)(b)'s friend, was being lodged in the holding cell area. § 87(2) § 87(2)(b) yelled to § 87(2)(b) for help. § 87(2)(b) asked the officers several times to explain why § 87(2) § 87(2)(b) was under arrest. Sgt. Roy Kim instructed § 87(2)(b) to leave the stationhouse and to stop recording. Sgt. Kim allegedly told § 87(2)(b) to "get the fuck out of the precinct" (**Allegation A: Discourtesy**, § 87(2)(g) § 87(2)(b) who was holding a phone, allegedly told Sgt. Kim that he should record the sergeant but did not record. As § 87(2)(b) walked through the first set of doors toward the exit of the stationhouse, Sgt. Kim allegedly approached § 87(2)(b) from behind and brought § 87(2)(b) to the ground before placing a knee on his lower back (**Allegation B: Force**, § 87(2)(g) § 87(2)(b) § 87(2)(b) alleged that the takedown resulted in a lower back injury, a swollen right knee, scrapes to his right knee, right hand, and right shoulder.

At some point when § 87(2)(b) was being processed for arrest, he asked Sgt. Kim and PO Alexis Martinez for their shield numbers, and they allegedly did not provide their shield numbers upon request (**Allegations C and D: Abuse of Authority**, § 87(2)(g) § 87(2)(b) § 87(2)(b)'s vehicle was seized by PO Martinez as per Sgt. Kim's directive (**Allegation E: Abuse of Authority**, § 87(2)(g) § 87(2)(b) § 87(2)(b).

Due to the administrative nature of their assignments, the officers in this case were not equipped with BWC at the time of the incident.

§ 87(2)(b)

Findings and Recommendations

Allegation (A) Discourtesy: Sergeant Roy Kim spoke discourteously to § 87(2)(b)

§ 87(2)(b) stated that he asked officers to explain why his friend, § 87(2)(b) § 87(2)(b) was being arrested, Sgt. Kim told § 87(2)(b) to, "Get the fuck out of here or I'll put you out of the precinct" approximately two or three times [Board Review 02].

§ 87(2)(b) § 87(2)(b)'s friend, arrived sometime after § 87(2)(b) entered the stationhouse. Upon her arrival at the stationhouse, she saw § 87(2)(b) speaking to the officers and asking them to explain why § 87(2) § 87(2)(b) was under arrest. She observed § 87(2)(b) and Sgt. Kim exchanging words. Aside from Sgt. Kim informing § 87(2)(b) that he could not record inside the stationhouse and that he needed to leave, she did not recall what he said to § 87(2)(b) [Board Review 03].

The investigation was unable to reach § 87(2) § 87(2)(b) for his statement.

Sgt. Kim testified that he told § 87(2)(b) that he would have to leave if he continued recording. Sgt. Kim did not recall telling § 87(2)(b) to "Get the fuck out or I'll put you out" nor did he recall using any profane language toward § 87(2)(b) [Board Review 04].

Sgt. Carmen Mateo, the domestic violence supervisor, testified that she was initially pre-occupied with informing § 87(2)§ 87(2)(b) of the circumstances of his arrest. Sgt. Mateo did not recall Sgt. Kim using any profane language toward § 87(2)(b) [Board Review 05].

The investigation was unable to obtain video evidence suggesting that Sgt. Kim used profanity in any conversation with § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

Allegation (B) Physical Force: Sergeant Roy Kim used physical force against § 87(2)(b)

It is undisputed that Sgt. Kim conducted a forcible takedown of § 87(2)(b) during this incident. § 87(2)(g)

§ 87(2)(b) stated that he asked Sgt. Mateo to explain why § 87(2)§ 87(2)(b) was being arrested. She asked § 87(2)(b) to leave the stationhouse twice. § 87(2)(b) who spoke in a normal tone of voice, continued to speak to Sgt. Mateo for approximately seven minutes. Sgt. Kim, while using profanity, instructed § 87(2)(b) to leave the stationhouse. § 87(2)(b) who was holding a phone at the time, told Sgt. Kim that he should record him. Although he was holding a phone, § 87(2)(b) did not record Sgt. Kim.

After Sgt. Kim instructed § 87(2)(b) to leave the stationhouse, he attempted to walk through the first set of doors to leave the stationhouse, § 87(2)(b) felt Sgt. Kim's arms wrap around his chest and hold him close, similar to a bear hug. § 87(2)(b) stated, "What are you doing? My back. I have a bad back." § 87(2)(b) felt Sgt. Kim pull him back approximately 5' into the stationhouse. As Sgt. Kim continued to hold § 87(2)(b) from behind, § 87(2)(b) felt his feet rise a few inches. § 87(2)(b) fell forward; his right knee hit the ground first, followed by his left knee and chest. Facing the floor, § 87(2)(b) did not see Sgt. Kim, but he felt Sgt. Kim on his back and his knee pressing into § 87(2)(b)'s back. Sgt. Kim pulled § 87(2)(b)'s arms back, and § 87(2)(b)'s chest pressed deeper into the floor. He looked to the side and saw Sgt. Mateo, PO Alexis Martinez and three other officers coming to assist Sgt. Kim. § 87(2)(b) felt another knee on his back from either PO Martinez or another officer, both of whom were standing by § 87(2)(b)'s sides. § 87(2)(b) tried to stay still as he felt handcuffs being placed on him. He was on the ground for approximately five minutes. § 87(2)(b) was processed for arrest and placed in a holding cell.

The following day, on July 13, 2020, § 87(2)(b) visited § 87(2)(b) in Queens, where he received an x-ray for his back and shoulder. He was informed that he had a slipped disc and a pinched nerve [Board Review 02].

§ 87(2)§ 87(2)(b) provided a statement consistent with § 87(2)(b)'s with the following exception: She stated that once on the ground, § 87(2)(b) said that he had problems with his back. § 87(2)§ 87(2)(b) did not recall Sgt. Kim's precise positioning on § 87(2)(b)'s back, nor did she recall him doing anything on his back. Approximately three or five male officers came to assist Sgt. Kim, but she did not see what they were doing because three officers approached to have § 87(2)(b) step out of the stationhouse, and she complied [Board Review 03].

The investigation was unable to reach § 87(2)§ 87(2)(b) for his statement.

Sgt. Kim testified that § 87(2)(b) was shouting and screaming about § 87(2)§ 87(2)(b) who was being lodged. § 87(2)(b) stated that he would kill the individual who complained about § 87(2)(b)

§ 87(2)(b) was holding a phone in his hand, which he held up at some point and said he was recording. He continued to record during the time he was inside the stationhouse. Sgt. Kim told § 87(2)(b) to stop recording. He did not recall how many times he issued the command. Sgt. Kim informed § 87(2)(b) that he would have to leave if he continued recording.

Sgt. Kim left the desk and approached § 87(2)(b) and told him that he had to leave. He placed a hand on § 87(2)(b)'s arm or back to gently nudge him in the direction outside of the stationhouse. § 87(2)(b) used his hand to swat at Sgt. Kim's direction so that Sgt. Kim's hand would not be on him. Sgt. Kim did not recall if § 87(2)(b) turned to face him. Sgt. Kim reached over § 87(2)(b)'s arms and wrapped his arms under § 87(2)(b)'s sternum. He did not pull § 87(2)(b) into the stationhouse. Sgt. Kim did not recall lifting § 87(2)(b) and dropping him onto the ground. Sgt. Kim twisted his body and placed § 87(2)(b) onto the ground in the direction of the stationhouse. He did not fall onto the ground with § 87(2)(b).

§ 87(2)(b) was on the ground and facing the floor, his hands in a push-up like position. Sgt. Kim stood near § 87(2)(b) and did not recall doing anything else. Other officers who Sgt. Kim did not recall came to place handcuffs on § 87(2)(b) who was tensing his arms and preventing the officers from bringing his arms to his back. Sgt. Kim did not recall how long it took to place § 87(2)(b) in handcuffs. Sgt. Kim did not recall placing a knee on § 87(2)(b)'s back or any officer placing a knee on § 87(2)(b)'s back. He did not recall § 87(2)(b) making any complaints about any injuries [Board Review 04].

Sgt. Mateo's testimony was mostly consistent with Sgt. Kim's testimony. She observed § 87(2)(b) threatening to harm the individual who complained about § 87(2)§ 87(2)(b) and threatening to sue the officers. § 87(2)(b) was waving his hands and holding a cellphone in one of them. § 87(2)(b) stated that he was recording and held his phone in front of his face. She did not recall Sgt. Kim issuing any commands to § 87(2)(b). As § 87(2)(b) was screaming, Sgt. Kim conducted a physical restraint of § 87(2)(b) by reaching both arms over § 87(2)(b)'s arms, near his upper arm area, and restraining him in a hug-like pose. They fell to the ground in a manner Sgt. Mateo was unable to describe. She did not know if they fell at the same time.

Sgt. Mateo did not recall the following: Sgt. Kim pulling § 87(2)(b) toward Sgt. Kim, how Sgt. Kim and § 87(2)(b) fell to the floor, or their positioning once they were on the ground. She did not observe Sgt. Kim, or any officer place a knee on § 87(2)(b)'s back. She did not recall if any officers were on top of § 87(2)(b) or whether any officer applied downward pressure on § 87(2)(b). She did not recall § 87(2)(b) making any complaints other than saying that he would sue the officers [Board Review 05].

A Threat, Resistance, and Injury report (TRI) prepared regarding the use of force notes that Sgt. Kim conducted a forcible takedown of § 87(2)(b). The TRI also notes that § 87(2)(b) complained of unspecified substantial pain [Board Review 06].

An Investigative Supervisor Assessment Report (ISAR) prepared regarding the TRI indicates that in an interview with DI Peter Andrea, § 87(2)(b) stated that he has a prior history of back pain caused by a history of sciatica [Board Review 07].

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b), § 87(2)(g)

Allegation (C) Abuse of Authority: Sergeant Roy Kim refused to provide his shield number to § 87(2)(b)

Allegation (D) Abuse of Authority: Police Officer Alexis Martinez refused to provide his shield number to § 87(2)(b)

§ 87(2)(b) stated that after he was handcuffed, he was brought to the front desk, past the gated area of the stationhouse lobby, where he asked PO Martinez to provide his shield number, Sgt. Kim's shield number, and all the present officers' shield numbers. Sgt. Kim and PO Martinez did not provide any shield numbers to § 87(2)(b) [Board Review 02].

Sgt. Kim testified that § 87(2)(b) did not ask for his shield number [Board Review 04].

Sgt. Mateo and PO Martinez testified that they did not recall § 87(2)(b) asking for Sgt. Kim's shield number [Board Reviews 05, 08].

On October 2, 2020, in a second interview, PO Martinez testified that he introduced himself as the arresting officer to § 87(2)(b) in the holding cell area. § 87(2)(b) did not ask for PO Martinez' shield number during any interaction between them. PO Martinez did not recall § 87(2)(b) asking for any other officer's shield number, nor did he recall any officer refusing to provide it to § 87(2)(b) [Board Review 09].

§ 87(2)(b), § 87(2)(g)

Allegation (E) Abuse of Authority: PO Alexis Martinez seized § 87(2)(b)'s property.

§ 87(2)(b) stated that his rental vehicle, which he had double-parked outside the stationhouse, was confiscated after he was arrested [Board Review 02].

Sgt. Kim testified that § 87(2)(b)'s arrest was assigned to PO Martinez [Board Review 04].

PO Martinez testified that after Sgt. Kim assigned the arrest to him. He seized § 87(2)(b)'s vehicle safekeeping [Board Review 08].

Property vouchers for § 87(2)(b)'s rental vehicle, a Dodge Charger, indicate that it was seized for safekeeping and returned on July 13, 2019. [Board Review 10].

NYPD Patrol Guide Procedure 208-03 provides several guidelines for processing an individual who has been arrested. Among these guidelines, officers must remove personal items and items required as evidence from the arrestee. Any vehicle not required as evidence must be safeguarded [Board Review 11].

§ 87(2)(b), § 87(2)(g)

- § 87(2)(b)
[REDACTED]
[REDACTED]
[REDACTED]
- Sgt. Kim has been a member of service for seventeen years. Two complaints, and two allegations, have been filed against him, none of which have been substantiated.
- PO Martinez has been a member of service for one year. No other complaints or allegations have been filed against him.

- This case was not suitable for mediation.
- On September 21, 2020, the Office of the New York City Comptroller confirmed receipt of a Notice of Claim regarding this incident [Board Review 13].
- § 87(2)(b)

Investigator: _____
 Signature Print Title & Name 10/5/2020
 Date

Squad Leader: Edwin Pena _____
 Signature Print Title & Name 10/05/20
 Date

Reviewer: _____
 Signature Print Title & Name Date